



## BASSFORD REMELE

### Kevin P. Hickey

SHAREHOLDER



khickey@bassford.com  
T 612.376.1620  
F 612.746.1220

#### PRACTICE GROUPS

Commercial Litigation  
Data Breach and Cybersecurity  
Intellectual Property Litigation  
Professional Liability/  
Claim Prevention

#### INDUSTRY GROUPS

Health Care  
Law Firms and Lawyers  
Technology

#### OVERVIEW

Mr. Hickey is a trial lawyer who represents businesses and individuals in complex commercial disputes, including intellectual property, unfair competition, and shareholder and class action litigation. He also represents lawyers and law firms in professional liability matters.

Mr. Hickey has handled several landmark cases in Minnesota and regularly appears before the Minnesota Supreme Court and Minnesota Court of Appeals. With more than 30 years of experience handling state and federal court matters and arbitration proceedings, he serves as counsel to clients ranging from Fortune 500 companies to individuals.

Mr. Hickey has tried and handled cases and appeals in numerous unfair competition cases for an international medical device company, defended a lawyer's first amendment rights in a first-of-its-kind legal malpractice case, and obtained favorable outcomes in multiple nationwide class action cases involving hundreds of thousands of claimants.

Mr. Hickey has been consistently recognized by *The Best Lawyers in America* for his work in commercial litigation and insurance law, and by Super Lawyers every year since 2003. He is Chair of the Bassford Remele Intellectual Property Litigation Practice Group and served as the firm's General Counsel for many years.

#### EDUCATION & ADMISSIONS

##### Education

University of Minnesota Law School, J.D., *cum laude*, 1989

-*Law and Inequality Journal*, Managing Editor

University of Minnesota, B.A., 1985

##### Bar Admissions

- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Federal Circuit
- U.S. District Court, District of Minnesota
- U.S. District Court, District of North Dakota
- U.S. District Court, Western District of Wisconsin
- Minnesota
- Wisconsin

#### EXPERIENCE

##### Representative Cases

- Decision involving successful jury trial establishing breach of a noncompete resulting in issues of appropriate equity relief for the breach. *St. Jude Medical, Inc. v. Carter*, 913 N.W.2d 678, 685 (Minn. 2018).
- Decision successfully establishing a breach of a restrictive covenant at trial and directing enforcement of contractual remedies provision requiring attorneys' fees award for violation of post-employment restrictive covenants for global medical device company; *St. Jude Med., Inc. v. Carter*, 899 N.W.2d 869 (Minn. Ct. App. 2017).
- Decision addressing application of the law of the flag doctrine in patent litigation cases; *M-I Drilling Fluids UK Ltd. v. Dynamic Air Inc.*, 99 F. Supp. 3d 969 (D. Minn. 2015).
- Decision enforcing health plan language permitting reimbursement for medical pay coverage; *Medica, Inc. v. Atlantic Mut. Ins. Co.*, 566 N.W.2d 74 (Minn. 1997).

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- Decision upholding dismissal of defamation claim against an attorney under the First Amendment; *Richie v. Paramount Pictures*, 544 N.W.2d 21 (Minn. 1996).
- Decision upholding successful RICO jury verdict; *United HealthCare Corp. v. Am. Trade Ins. Co.*, 88 F.3d 563 (8th Cir. 1996).

**Additional Representative Cases**

- Defended regional business in obtaining favorable resolution of copyright infringement and unfair competition action involving software code for online transactions.
- Decision upholding intra-firm attorney-client privilege.
- Decision confirming validity and enforceability of term-of-years employment agreement in breach of contract and tortious interference suit resulting in seven-figure jury verdict, including attorneys' fees award, for global medical-device company.
- Decision granting motion to dismiss and enforcing client's forum selection provision, for global medical-device company.
- Decision addressing whether an attorney was in privity with his client for purposes of application of res judicata; *Rucker v. Schmidt*, 794 N.W.2d 114 (Minn. 2011).
- Decision granting summary judgment on trade dress and other claims.
- Decision addressing the circumstances in which a personal representative of an estate can bring a legal malpractice action; *Profl Fiduciary, Inc. v. Silverman*, 713 N.W.2d 67 (Minn. Ct. App. 2006).
- Decision addressing medical insurers right to assert subrogation rights under the Collateral Source statute; *Kahnke v. Green*, 695 N.W.2d 148 (Minn. Ct. App. 2005).
- Decision upholding insurance coverage for mold damage to home; *Parr v. Gonzalez*, 669 N.W.2d 401 (Minn. Ct. App. 2003).
- Decision holding that federal law does not preempt medical assistance lien asserted by state's agent; *Medica, Inc. v. Billingslea*, 618 N.W.2d 616 (Minn. Ct. App. 2000).
- Decision upholding health insurer's right to subrogate to underinsured motorist coverage; *Commercial Union Ins. Co. v. Minn. School Bd. Ass'n*, 600 N.W.2d 475 (Minn. Ct. App. 1999).
- Decision addressing insurer's right to equitable contribution under the Minnesota Insurance Guaranty Act; *Maxwell Commc'ns v. Webb Publ'g Co.*, 518 N.W.2d 830 (Minn. 1996).
- Decision addressing and upholding health plan's right to seek reimbursement under contract terms; *Hershey v. Physicians Health Plan*, 498 N.W.2d 519 (Minn. Ct. App. 1992).

**Publications**

- *ABA Formal Opinion No. 483, Data Breaches, and You*, co-author, Bench & Bar of Minnesota, Mar. 2019

**Seminars**

- *Security Training Awareness*, co-presenter with Element Technologies, June 6, 2023 and May 10, 2022
- *Lessons Learned: Utilizing the Pandemic Experience to Avoid Legal Pitfalls and Cyber Security Risks as we Move to a Hybrid Workforce*, moderator, Bassford Remele Ethics Seminar, June 23, 2021
- *New Developments in Ethics and Professional Responsibility*, presenter, 2021 Civil Litigator Half-Day Seminars, Minnesota Continuing Legal Education, January 26, 2021

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- *Ethical Obligations the Attorney and Firm Have When a Lawyer Changes Firms*, presenter, Minnesota Continuing Legal Education, March 16, 2020
- *New Developments in Ethics and Professional Responsibility*, presenter, Civil Litigator's Annual Short Course, Minnesota Continuing Legal Education, 2017-2020
- *Cybersecurity: What's Your Incident Response Plan?*, presenter, Minnesota Continuing Legal Education, July 31, 2019
- *Ethics, Technology, and You: Lawyer Ethical Obligations Relating to Technology and Cyber Security*, moderator, Bassford Remele Ethics Seminar, June 18, 2019
- *Legal Ethics and Malpractice 2018: Identifying Trends and Practical Tips for Meeting the Challenges*, panelist, Minnesota State Bar Association Annual Convention, 2018
- *Legal Ethics and Malpractice 2018 – Identifying Trends & Practical Tips for Meeting the Challenges*, panelist, Legal Ethics 2018 – 3 Compelling Topics for Minnesota Lawyers, Minnesota Continuing Legal Education, February 28, 2018
- *Trademark Litigation Fundamentals: What To Do When Your Smaller Client Draws Unwanted Attention From the 800 Pound Gorilla*, presenter, Trademark Law Seminar, Hennepin County Bar Association, 2013
- *ERISA Liens*, presenter, Minnesota Motor Vehicle Accident Seminar, Minnesota State Bar Association, 2009
- *Health Plan Subrogation and Reimbursement under ERISA*, presenter, How to Handle Motor Vehicle Accidents in Minnesota Seminar, Minnesota State Bar Association, 2006
- *ERISA Issues in Light of the Knudson Decision*, presenter, Hennepin County Bar Association, Webcast on WestLegaledCenter.com, 2003
- *ERISA Subrogation*, presenter, Motor Vehicle Accident Cases Seminar, Minnesota State Bar Association, 2002
- *Subrogation Issues in UM and UIM Claims*, presenter, Handling Motor Vehicle Accident Cases Seminar, Minnesota State Bar Association, 1999
- *Health Care Subrogation Claims*, presenter, Insurance Subrogation Seminar, Minnesota Institute of Legal Education, 1999

**PROFESSIONAL & CIVIC**

**Professional Achievements**

- American Bar Association, Fellow
- Hennepin County Bar Association, Fellow

**Bar Associations**

- Federal Bar Association
- American Bar Association
  - Science and Technology Law Section
  - Tort Trial and Insurance Practice Section
- Minnesota State Bar Association
- State Bar of Wisconsin
- Hennepin County Bar Association

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**Professional Associations**

- Defense Research Institute
  - Technology Committee
- Minnesota Defense Lawyers Association

**Civic Involvement**

- Volunteer Lawyers Network
- Youth Football Coach

**ACCOLADES**

**Honors & Awards**

- *The Best Lawyers in America*, Insurance Law, 2014-present; Commercial Litigation, 2022-present; Ethics and Professional Responsibility Law and Intellectual Property Litigation, 2024
- Rated AV Preeminent® by Martindale-Hubbell®
- Minnesota Super Lawyers list, *Super Lawyers*, 2001, 2003-present